

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of :	Matthias Frericks, et al.	§	
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Conf. No.:	1279	§	Group Art Unit: 3762
		§	
Appln. No.:	10/735,069	§	Examiner: Terri L. Smith
		§	
Filing Date:	December 12, 2003	§	Attorney Docket No.: 920-9US
		§	(P10202US)
Title:	STIMULATION ELECTRODE AND METHODS OF MAKING AND USING SAME		

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

This is in response to the Examiner's Statement of Reasons for Allowance at page 2 of the Notice of Allowability attached to the Notice of Allowance dated May 1, 2008 in the above application. This response is being timely filed on or before the payment of the issue fee.

In the Notice of Allowability, the Examiner states that:

The combination of at least platinum and iridium with the claimed portions and a ceramic layer having a thickness of about 1 nm to about 20 micrometers having an oxide and/or an oxynitride of at least one of the claimed metals and silicon where the base member is in direct contact with the conducting layer as claimed in a stimulation electrode are not taught nor suggested by the prior art of record.

In this Statement, the Examiner has incorrectly stated independent claim 1. The Examiner's Statement of Reasons for Allowance is therefore erroneous.

Independent claim 1 recites:

1. A stimulation electrode comprising an electrically conducting electrode base member (2, 2a, 2b, 2c, 2d, 2e, 2f, 2g) formed of at least one metal selected from the group consisting of gold, carbon, platinum, iridium, platinum-iridium alloys, and stainless steel, wherein the electrode base member is partially covered with an electrically insulating ceramic layer, wherein the ceramic layer (3, 3a, 3b, 3c, 3d, 3e, 3f, 3g) has a thickness of about 1 nm to about 20 μ m and is formed of an oxide and/or an oxynitride of at least one metal selected from the group consisting of titanium, niobium, tantalum, zirconium, aluminum, and silicon, and wherein the electrode base member (2, 2a, 2b, 2c, 2d, 2e, 2f, 2g) is further at least partially

coated with and in direct contact with an electrically conducting layer (4b, 4c, 4d, 4e, 4f, 4g) comprising at least one material selected from the group consisting of titanium nitride, niobium nitride, tantalum nitride, zirconium nitride, aluminum nitride, silicon nitride, vanadium nitride, iridium oxide, and an alloy of platinum and iridium, wherein the iridium portion of the alloy is ≥ 21 wt. % and the platinum portion of the alloy is \geq about 100 ppm.

The Examiner represents the invention as encompassing “the combination of at least platinum and iridium with the claimed portions...” It is not clear if the Examiner is referring to the claimed electrically conductive base member (2, 2a, 2b, 2c, 2d, 2e, 2f, 2g) or the electrically conducting layer (4b, 4c, 4d, 4e, 4f, 4g) since both may be formed of a combination of platinum and iridium.

The electrically conductive base member is formed of “at least one metal selected from the group consisting of gold, carbon, platinum, iridium, platinum-iridium alloys, and stainless steel,” and the Examiner has unacceptably narrowed the claimed invention by implying that the combination of platinum and iridium is required. Rather, platinum-iridium alloys are only one possible material which may comprise the electrically conductive base member.

Similarly, the electrically conducting layer may be formed of “at least one material selected from the group consisting of titanium nitride, niobium nitride, tantalum nitride, zirconium nitride, aluminum nitride, silicon nitride, vanadium nitride, iridium oxide, and an alloy of platinum and iridium.” Again, by stating that the invention includes a combination of platinum and iridium, the Examiner is unacceptably narrowing the invention, since there is no requirement that the electrically conducting layer comprise a platinum-iridium alloy.

Finally, the Examiner states “...having an oxide and/or an oxynitride of at least one of the claimed metals and silicon...” This statement implies that the invention requires at least one metal and silicon. To the contrary, claim 1 recites that the oxide and/or oxynitride is formed of “at least one metal selected from the group consisting of titanium, niobium, tantalum, zirconium, aluminum, and silicon.” That is, the oxide and/or oxynitride comprises a metal which may or may not be silicon.

It is respectfully requested that these comments be placed of record in the application file for clarification of the record in this case.

Respectfully submitted,

MATTHIAS FRERICKS, ET AL.

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(Date)

Sandra Katz wws
Sandra M. Katz
Agent for Applicant
Registration No. 51,864
Direct Dial: 215-965-1344
E-Mail: skatz@panitchlaw.com

Panitch Schwarze Belisario & Nadel LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103
Telephone No.: 215-965-1330
Fax No.: 215-965-1331

SMK/smk